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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,122	09/24/2001	Pieter Adriaan Oosterling	03330-P0010A	5702

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EXAMINER

NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 01/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/868,122

Applicant(s)

OOSTERLING ET AL.

Examiner

Son T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 21 & 22 are misnumbered because in the preliminary amendment filed on 9/24/01, applicants have cancelled claim 21 but then renumbered claim 22 as 21, which is improper. Claim 21 in the preliminary amendment is renumbered as claim 22 and the original claim 22 is moot in view of the renumbering. Pending claims are 1-20, & 22.

2. Applicants have elected species II which is the embodiment of figures 4 & 5. This species includes claims 1-7,12,14-20,22. Claims 8-11,13 have been withdrawn from consideration due to it being non-elected.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 7,15,16,22** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 7, it appears that the milk tank as shown in fig. 4 comprises of the receptacle 30 and the liner 31; however, claim 7 seems to state that the milk tank is in the receptacle which is unclear. Only the liner 31 is positioned in the receptacle and not the milk tank. Regarding claim 15, it is unclear how a plurality of milk tanks, each is provided with a switchable valve coupled to the one signaling means in the tank as claimed in claim 14, which claim 15 is dependent on. Perhaps applicants should claim each of the plurality of milk tanks having a signaling means which is coupled to a switchable valve. Regarding claim 16, lines 2,5,8, it is unclear if the storage tank is the same as the milk tank because applicants have

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designated same reference numerals for both in the claims. In addition, only one storage tank is claimed but there are four storage tanks 117-120. Furthermore, in line 2, "the milking cups" lacks prior antecedent basis. Regarding claim 22, a method is being claimed by applicants without step(s) to perform the method.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

6. **Claims 1-3,14** are rejected under 35 U.S.C. 102(e) as being anticipated by van der Lely et al. (US 5,769,025).

For claim 1, van der Lely et al. disclose a device for milking animals comprising at least one milking stall (as shown in fig. 1) for extracting milk; means for de-aerating milk (col. 5, line 8); means 31 for conveying de-aerated milk to a milk tank 60 for storage, wherein the storage volume of the milk tank is a closed chamber with a variable volume (the chamber of van der Lely can accommodate any amount of milk which makes it variable volume chamber; for example, if 1 liter is to be stored in the chamber, the chamber can accommodate to that amount, if 2 liter is to be stored in the

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chamber, the chamber can accommodate that amount, and so forth up to the maximum limit of the chamber) which corresponds to the volume of the milk stored therein.

For claim 2, van der Lely et al. further disclose cooling means (col. 9, lines 32-43).

For claim 3, van der Lely et al. further disclose the milk tank is positioned in a cooled environment and is provided with cool walls due to the cooling means (col. 9, lines 32-43). The cooled environment is provided by the cooling means.

For claim 14, van der Lely et al. further disclose the milk tank 60 is provided with signaling means 123 for signaling when the storage volume has reached its maximum (col. 17, lines 1-10).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 4-7,12,22** are rejected under 35 U.S.C. 103(a) as being unpatentable over van der Lely et al. (US 5,769,025) in view of Bender (US 2,905,560).

For claim 4, van der Lely et al. are silent about at least part of the milk tank is made from a flexible material. Bender teaches a milk tank 10,16 for storing milk in which at least part of a wall of the tank is made from a flexible material (col. 1, line 58). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a flexible milk tank as taught by Bender in place of the

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tank of van der Lely et al. in order to prevent air from being trapped in the tank, thus eliminating air-borne contamination (col. 1, lines 20-28).

For claim 5, the inner sides of the walls of van der Lely et al. as modified by Bender (emphasis on Bender) are smooth and free of corners.

For claim 6, van der Lely et al. as modified by Bender (emphasis on Bender) further disclose the milk tank is rotationally symmetrical because of it's circular shape.

For claim 7, van der Lely et al. as modified by Bender (emphasis on Bender) further discloses the flexible bag 10 is positioned in a receptacle 16.

For claim 12, van der Lely et al. as modified by Bender (emphasis on Bender) further disclose the milk tank being transportable because it is foldable and storabe (col. 1, line 23).

For claim 22, since there is no step associated with the method as mentioned in the 112 rejection above, the examiner is considering this claim similar to that of claims 1,4 as explained above. The tank of van der Lely et al. as modified by Bender can be transported to a remote site, wherein when the milk has been emptied, the chamber is connected to subatmospheric pressure in order to reduce storage volume of the chamber (col. 1, lines 15-28).

9. **Claims 15-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over van der Lely et al. (US 5,769,025).

For claim 15, Van der Lely et al. are silent about having a plurality of milk tanks with a switchable valve coupled to the signaling means. It is notoriously well known in the art of milking to have a plurality of tanks for containing milk in the event one tank is

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full, the milk is guided to another tank and so forth. Given this, it is also notoriously well known to have a switch valve couple to a signaling means in the tanks to indicate when one tank is full, the milk should be guided to another tank and so forth. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a plurality of milk tanks which all are provided with a switchable valve coupled to each signaling means in each of the plurality of tanks in the device of van der Lely et al. since it is notoriously well known in the art to have a plurality of milk tanks in a milking system to accommodate milk storage in the event one tank is full, the milk can be guided to another tank and so forth.

For claim 16, van der Lely et al. further disclose a milking line 11 between milking cups 10 and a storage tank 12; a discharge line 16 between the milking cups and a discharge vessel 36 for discharging cleaning fluid; and a control system 9,68. As for the at least two milk tanks and switching means, see the above claim 15 for explanation.

For claim 17, van der Lely et al. further disclose identification means (col. 4, lines 55-62) and memory means (inherent in the computer 9,68).

For claim 18, van der Lely et al. further disclose information regarding period of lactation are stored in the memory means (col. 15, lines 61-64). As for means for coupling the milking line to various milk tanks, see the above claim 15 for explanation.

For claim 19, van der Lely et al. further disclose sensor means 6,7,8,15, incorporated in the milking line for measuring concentration of substance or property in the milk.

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For claim 20, van der Lely et al. are silent about a plurality of milking stalls. It is notoriously well known in the milking art to have a plurality of milking stalls in order to allow milking of more than one cow. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a plurality of milking stalls in the milking device of van der Lely et al. in order to allow milking of more than one cow. As for the switching means in the milk tanks, see the above claim 15 for explanation.

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.



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- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

10. The disclosure is objected to because of the following informalities: on page 11, lines 7-9, applicants stated that the discharge line 103 is connected to the discharge vessel 116 by means of a vacuum line 115; however, in fig. 6, vacuum line 115 does not appear to connect the discharge line 103 to the discharge vessel 116. Appropriate correction is required.

11. This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

### ***Drawings***

12. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 23. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

13. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "30" has been used to designate both supporting wall and holder. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

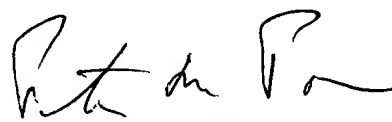
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14. The following prior arts are made of record to provide the best available relevant examples of a device for milking animals: 3752354 teaches a convertible transporting device for liquid and dry goods having a flexible liner creating a chamber that is variable in volume. 5783245 teaches a milk tanker for transporting milk to different location.

2616809, 2873723, 3036552, all teach milking process. 4043352 teaches a pressure accumulator. 2758747 teaches multiple compartment tank having a flexible liner therein. EP88400336 teaches a milk collecting unit and cleaning device therein.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Son T. Nguyen  
Patent Examiner, GAU 3643  
January 13, 2002



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